

JUL - 8 1993

Before the
FEDERAL COMMUNICATIONS COMMISSION
 Washington, D.C. 20554

FEDERAL COMMUNICATIONS COMMISSION
 OFFICE OF THE SECRETARY

In re Application of)	MM DOCKET NO. 93-56
)	
RICHARD BOTT II)	File No. BAPH-920917GO
(Assignor))	
)	
and)	
)	
WESTERN COMMUNICATIONS, INC.)	
(Assignee))	
)	
For Assignment of Construction)	
Permit of Station KCVI(FM),)	
Blackfoot, Idaho)	

To: The Commission

**MASS MEDIA BUREAU'S OPPOSITION TO PETITION
 FOR LEAVE TO FILE PETITION FOR RECONSIDERATION**

1. On June 25, 1993, Richard P. Bott, II ("Bott") filed a Petition for Leave to file a Petition for Reconsideration of the Hearing Designation Order in the above-captioned proceeding, FCC 93-290, released, as corrected, June 15, 1993 ("HDO"). A Petition for Reconsideration is attached. For the reasons set forth in the following comments, the Mass Media Bureau opposes Bott's Petition.

2. Section 1.106 (a) (1) of the Commission's Rules states, in pertinent part:

A petition for reconsideration of an order designating a case for hearing will be entertained if, and insofar as, the petition relates to an adverse ruling with respect to petitioner's participation in the proceeding.

Clearly, because the HDO designated Bott's application for

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hearing, there was no adverse ruling regarding his participation in this proceeding. For this reason, the Petition for Reconsideration cannot be entertained.

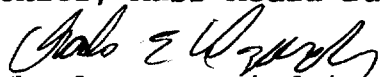
3. In recognition of this fact, Bott seeks a waiver of Section 1.106 (a)(1) in order to permit the filing of his Petition for Reconsideration. Bott does not cite a single fact to support his request for such extraordinary relief. Instead, he alleges that the HDO "misstated a key fact," at p. 2, or designated issues "on the basis of an erroneous premise," at p. 4. The gravamen of Bott's Petition is his disagreement with the HDO's conclusion that there appears to be a conflict between his hearing testimony and later statements in this proceeding. Bott speculates that the Commission may have misinterpreted Bott's statements in this proceeding. Petition for Reconsideration at Pp. 2, 3, and 5.

4. The Commission found it "proper to inquire into why, if Bott previously represented that he intended to proceed without having chosen a particular format, the format issue became so critical later." HDO at para. 10. The Commission also stated its belief that "there are substantial and material questions of fact concerning whether Bott, in the course of the comparative licensing proceeding, misled or lacked candor with the Commission about his intention to move to Blackfoot and act as full-time general manager of his proposed station." HDO at para. 13. We submit that these statements clearly set forth the basis for

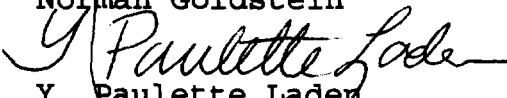
designating the above-captioned applications for hearing, and that neither is based on an erroneous premise or a misstatement of any key fact. Bott's sole basis for seeking a waiver of Section 1.106 (a) (1) is his disagreement with the HDO's characterization of the facts. We submit that this is not sufficient justification. If it were, every applicant designated for hearing would have cause to seek reconsideration.

5. Bott will have ample opportunity to prove that he did not misrepresent facts to or lack candor with the Commission. That is precisely the question to be resolved in the instant proceeding. A Petition for Reconsideration should not be entertained.

Respectfully submitted,
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July 8, 1993

CERTIFICATE OF SERVICE

Michelle C. Mebane, a secretary in the Hearing Branch Mass
Media Bureau, certifies that she has, on this 8th day of July,

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